

2019 PURCHASE OF SERVICES AGREEMENT FOR PSYCHIATRIC OR MEDICAL DOCTOR SERVICES WITH THE WAUKESHA COUNTY, HEALTH AND HUMAN SERVICES DEPARTMENT

1. PARTIES

This Agreement is made by and between the WAUKESHA COUNTY, DEPARTMENT OF HEALTH AND HUMAN SERVICES, whose principal address is 514 Riverview Avenue, Waukesha, WI 53188 3631, hereinafter referred to as Purchaser, and

_____, whose principal address is _____, hereinafter referred to as Provider.

For purposes of this Agreement, the terms client, applicant, participant, recipient, customer and consumer are interchangeable, and all are meant to refer to the persons receiving services from the Purchaser or the Provider.

In consideration of the mutual covenants and promises contained herein, the parties hereby agree as follows:

2. TERM OF THE AGREEMENT

The term of this Agreement is one (1) year from January 1, 2019 thru December 31, 2019. This Agreement will not automatically renew.

3. COMPENSATION

Compensation shall be governed by the terms of the attached Program Description(s).

4. PURCHASE AND COST OF SERVICES

- A. The Provider agrees to provide to clients during the term of this Agreement, the services as described in the attached Program Description(s). Program Description(s) are attached hereto and incorporated by reference to this Agreement in its entirety.
- B. The Provider agrees to provide the Purchaser with the services listed in the Program Description(s) at the agreed upon rates and units of service. The total amount Purchaser will pay Provider for services provided in accordance with this Agreement shall not exceed the total amount set forth in the Program Description(s), any statutory or common law provisions to the contrary notwithstanding.
- C. Nothing contained in this Agreement shall be construed to supersede the lawful powers or duties of either party.
- D. Purchaser reserves the right to withdraw any recipient from the program, service, institution, or facility of Provider at any time, when in the judgement of Purchaser, it is in the best interest of Purchaser or the recipient to do so.

- E. Registration – Out of State Providers Transacting Business in Wisconsin. Chapters 178, 179, 180, 181, and 183 of the Wisconsin Statutes contain a general provision that the following organizations shall not transact business in the state of Wisconsin until a certificate of authority or registration has been obtained from the Department of Financial Institutions: a foreign (out-of-state) corporation, nonstock corporation, limited partnership, limited liability company, cooperative association, or limited liability partnership. Providers meeting the above criteria must be registered to do business in the State of Wisconsin with the Department of Financial Institutions (<https://www.wdfi.org/>) or 608-261-7577 prior to execution of this Agreement. For assistance regarding state statute requirements, contact the State of Wisconsin Department of Financial Institutions.
- F. Sole Proprietors. If the Provider is a sole proprietor, a Federal Employer Identification Number (FEIN) must be provided. If the Provider is a sole proprietor whose principal address is located outside of the state of Wisconsin, the Provider must also designate an agent in the State of Wisconsin for service of process and submit that contact information for the in-state agent to Purchaser prior to execution of this Agreement.

5. STAFFING AND DELIVERY OF SERVICES

- A. Purchaser shall not pay Provider unless Provider has returned a signed 2019 Purchase of Services Agreement with the Purchaser, any signed Program Description(s) for the specific service(s), as well as any relevant items listed below, and said Agreement provides for sufficient funds to pay for the services. Required items include:
 - i. Current Certificate of Insurance
 - ii. Civil Rights Letter of Assurance
 - iii. Photocopy of Provider agency or Provider license or certificate (only if Provider provides a licensed/certified service)
 - iv. Confidentiality/Non-Disclosure Agreement and/or Business Associate Agreement (BAA) if required in the attached Program Description(s)
 - v. Business to Business Network Access Agreement if required in the attached Program Description(s)
- B. Provider shall be licensed to practice medicine in the State of Wisconsin.
- C. Provider agrees to submit an application for medical staff appointment to be approved by the Human Services Board to practice his/her specialty on behalf of the Purchaser.

6. PAYMENT FOR SERVICE

- A. Purchaser agrees to pay Provider for authorized services provided in accordance with this Agreement and the attached Program Description(s).
- B. The total amount paid to the Provider for this contract period shall not exceed the maximum compensation set forth in the attached Program Description(s). Provider shall submit a bill,

on a form approved by the Purchaser, indicating both the number of hours worked and a description of the work performed. Such bill shall be submitted to the Purchaser after services have been rendered and no later than the 10th day of the month following the month during which the work was performed. Provider shall work the hours as scheduled and pre-approved by Purchaser. Any variation in the scheduled time of work or hours worked shall be approved by Purchaser.

- C. Submit to Purchaser, by January 17, 2020, all final billings or adjustments to billings, that would be reimbursed under the terms of this Agreement. No billings for 2019 will be accepted after this date. This will insure that Purchaser will be able to meet the State of Wisconsin deadlines for submission of expenses to obtain reimbursement. Failure to obtain billing for services by this date will negate any payment terms.
- D. Notwithstanding any statutory or common law provisions to the contrary, Provider shall return to Purchaser funds paid in excess of the actual allowable costs, profits or reserves of the programs provided. Provider shall tender the amount of repayment within (30) thirty days of determination of repayment. If the Provider fails to tender the repayment, Purchaser may elect to recover such funds from subsequent payments made to Provider. The allowable costs of standard programs shall be determined pursuant to the Department of Health Services' Accounting Principle and Allowable Cost Policy Manual.
- E. Additionally, Purchaser shall recover from Provider money paid in excess of the terms of this Agreement or money paid for services not received or provided. Upon Purchaser's written demand for repayment, Provider shall tender the amount of repayment within (30) thirty days, unless other repayment terms are agreed upon in writing. If the Provider fails to tender the repayment, Purchaser may elect to recover such funds from subsequent payments made to Provider.
- F. Purchaser will not pay or be liable for any amount in excess of maximum compensation set forth in the Program Description(s), regardless of the actual units of service provided.
- G. Provider invoice forms shall be approved by the Purchaser. Invoices shall not be submitted for payment prior to the delivery of the last unit of service for that billing period.
- H. Purchaser will make payments for this Agreement period only when all insurance and other compliance requirements have been met (or waived by the Purchaser). Evidence of compliance with the insurance requirement will be a Certificate of Insurance submitted to and approved by the Purchaser.

7. INDEMNITY AND LIMITATION OF LIABILITY

- A. Provider agrees to indemnify, hold harmless and defend Purchaser, its officers, agents, and employees from any and all liability, including claims, demands, losses, judgment, costs, damages, fees and expenses of every kind, or damage to persons or property, which either arise out of, in connection with, or occur during the course of this Agreement, where such

liability is founded upon or grows out of the acts or omissions of any employee, contractor, volunteer, intern, student, or agent of the Provider. Provider further agrees to indemnify Purchaser for any amount Purchaser may be required to repay to the State of Wisconsin by virtue of payments made to Provider by Purchaser under this Agreement that the State of Wisconsin determines to be overpayments or inappropriate payments.

- B. Nothing in this Agreement, including but not limited to the indemnification terms, or the acts of Purchaser shall in any way constitute a waiver by Purchaser, its agents, officers and employees of any immunity, liability limitation, limitation on the amount recoverable, or other protections available to Purchaser under Chapter 893, Wisconsin Statutes, any other applicable statute or law.
- C. In the event any action, suit or other proceeding is brought against the Purchaser upon any matter here indemnified against, the Purchaser shall give notice to Provider and shall cooperate with Provider in defense of the action, suit or other proceeding.

8. INSURANCE

- A. Provider agrees that, in order to protect itself and Purchaser under the indemnity terms set forth in this Agreement, it will, at all times during the terms of this Agreement, keep in force and effect insurance policies as outlined below, issued by a company or companies authorized to do business in the State of Wisconsin and satisfactory to the Purchaser. Such insurance shall be primary. Purchaser shall be given thirty (30) days advance notice of cancellation or non-renewal during the term of this Agreement.
- B. Upon execution of this Agreement, Provider shall furnish Purchaser with a Certificate of Insurance (as well as any applicable renewal notice) and, upon request, certified copies of the required insurance policies showing the following:
 - i. Professional Liability Insurance-Policy shall be written to provide coverage for professional liability, including but not limited to the following: insurance against liability for malpractice, error, mistake and omission with a limit of liability of not less than \$1,000,000 each medical occurrence and \$3,000,000 annual aggregate.
 - ii. Worker's Compensation and Employers' Liability Insurance-Statutory worker's compensation benefits and employers' liability insurance with a limit of liability not less than \$100,000 each accident. If Provider operates as a sole proprietor and does not elect coverage under 102.075 of the Wisconsin Worker's Compensation Act, Provider will purchase, at their own cost and expense, health, disability and life insurance coverage to protect against injury or death sustained in the pursuit of a vocation, profession or business. Provider understands and agrees that the Purchaser shall not be liable to Provider for any injuries sustained as a result of services provided that are connected or related to this Agreement. Provider agrees on behalf of one's self and anyone entitled to act on their behalf, to waive and release Purchaser, its employees, officers, agents, and representatives and hold them harmless for any and

all claims or liability for loss, injury or death that he may suffer in performance of this Agreement.

- C. For claims-made coverage, the retroactive date of coverage for policies in force during this Agreement shall be no later than the inception date of the Agreement. Coverage shall be extended beyond this Agreement and the policy year either by a supplemental extended reporting period endorsement with no less coverage for at least two (2) years after this Agreement has terminated or by providing a retroactive date no later than the inception date of this Agreement for any policy issued within two (2) years after this Agreement terminates.

9. AUDIT REQUIREMENTS

- A. In the event that the Purchaser deems it necessary to conduct an audit or inspection, Provider shall, during normal business hours, furnish or make available at a time designated by the Purchaser and in the form required by the Purchaser, information, records and reports regarding powers, duties, activities, organization, property, financial transactions, method of operation, or any and all other records, reports or information in Provider's custody or control pertinent to this Agreement.
- B. Provider shall provide the Purchaser's inspectors or auditors access to all property, equipment and facilities in Provider's custody or control related to the services provided or purchased under this Agreement. Provider shall be expected to provide, at Provider's expense, reasonable time by Provider's personnel as may be required for the Purchaser's inspectors or auditors to perform the inspection or audit.
- C. Any information provided to the inspectors or auditors, which is deemed confidential by federal, state or local laws, shall be held as confidential and not disclosed to the public.

10. DISCRIMINATION, AFFIRMATIVE ACTION, CIVIL RIGHTS COMPLIANCE

- A. ALL PROVIDERS must submit a signed and completed Letter of Assurance, regardless of number of employees or dollar amount of contracted services. A copy can be found at <http://dhs.wisconsin.gov/civilrights/CRC/requirements.htm>.
- B. IF YOU ARE A PROVIDER WITH MORE THAN 50 EMPLOYEES AND MORE THAN \$50,000 IN CONTRACTED SERVICES IN A BUDGET YEAR, you will complete a current Subrecipient Civil Rights Compliance Action plan for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and the Americans with Disabilities Act (ADA) of 1990. You must keep this plan on file and have it available for Purchaser to view in either a desk audit or a site visit. You do not have to submit a copy to Purchaser unless requested. The plan may cover a 3 year period. A copy of the plan can be found at <http://dhs.wisconsin.gov/civilrights/CRC/requirements.htm>.

- C. Purchaser will monitor the Civil Rights Compliance of Provider. Purchaser may conduct reviews to ensure that the Provider is in compliance by performing desk audits or onsite reviews. Provider agrees to comply with Civil Rights monitoring reviews, including the examination of records and relevant files maintained by Provider, as well as interviews with staff, clients, applicants for services, subcontractors and referral agencies. Purchaser will also conduct reviews to address immediate concerns of complainants.
- D. The Provider agrees to the following provisions:
- i. No otherwise qualified person shall be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination in any manner on the basis of race, color, national origin, religion, sex, disability or age. This policy covers eligibility for and access to service delivery, and treatment in all programs and activities.
 - ii. No otherwise qualified person shall be excluded from employment, be denied the benefits of employment or otherwise be subject to discrimination in employment in any manner or term of employment on the basis of age, race, religion, color, sex, national origin, or ancestry, handicap (as defined in Section 504 and the Americans with Disabilities Act (ADA)), physical condition, developmental disability (as defined in s.51.05(5)), arrest or conviction record (in keeping with s.111.32), sexual orientation, marital status, or military participation. All employees are expected to support goals and programmatic activities relating to non-discrimination in employment.
 - iii. The Provider shall post the Equal Opportunity Policy, the name of the Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, and applicants for employment and employees. The complaint process will be according to Purchaser's standards and made available in languages and formats understandable to applicants, clients and employees.
 - iv. The Provider agrees that through its normal selection of staff, it will employ staff with special language skills or find persons who are available within a reasonable time and who can communicate with non-English speaking clients; train staff in human relations techniques and sensitivity to cultural patterns; and make the programs and facilities accessible, as appropriate, through outstations, authorized representatives adjusted work hours, ramps, doorways, elevators, or ground floor rooms.
- E. The Purchaser will take constructive steps to ensure compliance by the Provider with the provisions of this subsection.

11. PROVIDER RESPONSIBILITIES

- A. Provider agrees to comply with State and Federal Rules and Regulations, applicable to the services covered by this Agreement.
- B. Submit to Purchaser all documentation required for Purchaser to claim any eligible State and Federal funding sources, as detailed in the Program Description(s) in a timely manner.
Failure to meet any documentation or compliance requirements set forth in the Program Description(s), which result in a loss of State or Federal funding, will be reimbursed by Provider.
- C. Submit copies of State certification and licensing for the respective programs being purchased under this Agreement. Renewals of State licenses or certificates shall also be provided within 10 working days of receipt.
- D. Provide a high quality service as agreed to under this Agreement. The quality of the Provider's service is to be measured either by any standards established by the Provider's industry, State/Federal regulations, or in the event such standards have not been established, by comparison to the service offered by similarly situated providers in the industry.
- E. Conduct caregiver background checks at its own expense of all employees, volunteers, students, interns, contractors and agents providing services on behalf of Provider if required under the provisions of DHS 12, Wis. Admin. Code (online at http://docs.legis.wisconsin.gov/code/admin_code/dhs/001/12). The Provider shall maintain the results of background checks on its own premises for at least three (3) years from the conclusion of this contract. Additionally, Purchaser reserves the right to request the results of background checks and/or do additional background checks. The Provider shall provide any information requested by Purchaser to allow Purchaser to conduct additional caregiver background checks at Purchaser's expense. The Provider shall notify Purchaser in writing within one (1) day if Provider or Provider's employees, volunteers, students, interns, contractors or agents have been convicted of any crime specified in DHS 12.07(2).
- F. Certify through signing this Agreement that neither Provider or any of its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in federal assistance programs by any federal department or agency. In addition, Provider shall notify Purchaser within five business days in writing if Provider or its principals receive a designation from the federal government that they are debarred, suspended, proposed for debarment, or declared ineligible by a federal agency.
- G. If access to any Waukesha County building or facility is given to Provider, including Provider's employees, volunteers, students, interns, contractors or agents, the Provider is responsible for training these individuals and ensuring their compliance with the Waukesha County Controlled Access Policy. Purchaser may rescind card access badge or modify

access protocols at any time as it deems necessary. Provider will ensure its employees, volunteers, students, interns, contractors and agents:

- i. Have undergone background checks in accordance with this Agreement.
- ii. Not permit any other individuals to “tailgate” with them into the building using their card access. Any visitors such as family, friends, visitors, or other members of the public must go through the County’s controlled access screening station during the stated hours of operation.
- iii. Not bring firearms, knives or any other prohibited weapons or contraband into building.
- iv. Not loan out card access to other persons.
- v. Not use emergency exits unless there is an emergency.
- vi. Report lost or misplaced card access badge to Purchaser within twenty-four (24) hours. Provider will be charged a fee of \$10.00 for each replacement card.
- vii. Within one (1) hour of termination or removal of employee, Provider will collect card access badge and return to the Purchaser.
- viii. Remove any employee from servicing Purchaser who violates card access policies and procedures and return card access badge to Purchaser within twenty-four (24) hours.

12. RECORDS

- A. Provider shall maintain all records and financial statements as required by Purchaser, and State and Federal rules and regulations. The standard record retention period is 10 years unless specified otherwise by County, State or Federal rules and regulations.
- B. Purchaser's representatives, or representatives of appropriate State or Federal agencies (i.e. The Centers for Medicare and Medicaid Services), shall have a right of access to client, employee, financial or other records of Provider as may be necessary to evaluate or confirm Provider's rates and charges for care and service, collections and cost estimates in compliance with the specifications of this Agreement. The provision of this paragraph shall continue for a period of three years following the completion of services.
- C. Any information, records and reports provided to or obtained by the Purchaser pursuant to the preceding paragraph, or which otherwise comes into possession of the Purchaser pursuant to this Agreement, shall be subject to the provisions of Wisconsin’s Public Records Law.
- D. The use or disclosure by any party of any information concerning clients who receive services from Provider for any purpose not connected with the administration of Provider's or Purchaser's responsibilities under this Agreement is prohibited except with the informed, written consent of the eligible client or the client's legal guardian or as otherwise provided by law.

13. RESOLUTION OF DISPUTES, GOVERNING LAW AND VENUE

The parties will attempt to resolve any dispute regarding this Agreement between themselves and any mutually agreed upon resolution will be in writing. Disputes under this Agreement will be

governed by Wisconsin law. Venue for state claim lawsuits shall be Waukesha County Circuit Courts and for federal claim lawsuits shall be the Eastern District Federal Court in Wisconsin.

14. AMENDMENTS AND TERMINATIONS OF THE AGREEMENT

- A. If through any cause, the Provider shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the Provider shall violate any of the covenants or stipulations of this Agreement, or if Provider violates State or Federal law while providing services under this Agreement, the Purchaser shall thereupon have the right to terminate this Agreement by giving written notice to the Provider specifying the effective date thereof, at least five days before the effective notice of such termination.
- B. Any and all amendments of this Agreement shall be agreed to in writing by Purchaser and Provider in an Amendment, to be signed by the authorized representatives of both parties.
- C. If Provider or Purchaser determines that Provider is unable to provide the required quality or quantity of services, Purchaser and Provider shall determine whether such inability will require an amendment or termination of this Agreement.
- D. This Agreement, or any part thereof, must be amended or terminated in the event of any of the following that affect the substance of the program:
 - i. Increased or decreased volume of services
 - ii. Change in Medicaid or Medicare rates
 - iii. Changes required by Federal or State laws, regulation, rules and policies
 - iv. Administrative Agency or Court action
 - v. Change in available funding

15. PROHIBITED PRACTICES

- A. During the period of this Agreement, Provider shall not hire, retain, or utilize for compensation, any member, officer, or employee of Waukesha County, or any person, whom, to the knowledge of the Provider, has a conflict of interest. No employee of the Waukesha County shall be an officer, member of the Board of Directors, or have a proprietary interest in the Provider's business. Any exceptions to this term must be approved in writing in advance by the Purchaser.
- B. Provider shall furnish Purchaser with written disclosure of any financial interest, employee relationship, professional services or consultant relationship, which any of Provider's employees, officers, board members, stockholders, or members of their immediate family may have with respect to any supplier of goods and services under this Agreement.

16. ASSIGNMENT LIMITATION

This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns provided, however, neither party shall assign its obligations hereunder without the prior written consent of the other.

17. SUBCONTRACTING

The Provider shall not subcontract any portion of this Agreement without the prior written consent of Purchaser, and consent to a subcontract shall not be deemed to be consent to any subsequent subcontract. Any such subcontract without such consent shall be void, and shall, at the option of Purchaser, terminate this Agreement. If such subcontracting does occur, Provider remains responsible for fulfillment of all terms of this Agreement.

18. INDEPENDENT CONTRACTOR

Nothing contained in this Agreement shall constitute or be construed to create an employment relationship, a partnership or joint venture between the Purchaser or its successors or assigns and Provider or its successors or assigns. By entering into this Agreement and by acting in compliance herewith, Provider is at all times acting and performing as an independent contractor, duly authorized to perform the acts required hereunder, and in no sense shall be considered employees, agents or volunteers of the Purchaser. Provider shall have no expectations of obtaining employment from Purchaser in the future.

19. QUALIFIED SERVICE AGREEMENT

In order to insure the provision of services to the Purchaser's clients and allow for the Purchaser to monitor those services, considering that the disclosure of this information is governed by one or more State Administrative Codes, State Statutes, Federal Regulations and/or Federal Statutes, the Purchaser and the Provider each agree:

- A. To be fully bound by the governing State Code or Statute and/or Federal Regulation or Statute in receiving, storing, and otherwise dealing with any information about a client who receives services.
- B. To institute appropriate procedures for safeguarding such information, particularly client identifying information.
- C. Absent a lawful court order, to refuse to provide any confidential information pertaining to clients unless authorized to do so by the governing State Code or Statute and/or Federal Regulation or Statute or proper authorization form executed by the client or legal representative.
- D. To recognize that any unauthorized disclosure of client information may result in either civil and/or criminal proceedings.
- E. Provider agrees to pay the cost of addressing any information security breach, including the unauthorized release of personal client information such as SSN, DOB, etc., or the release of information protected by HIPAA or other relevant federal laws. The cost would include credit monitoring or any other expense for any breach for which they are responsible.

20. HIPAA COMPLIANCE

- A. The Provider agrees to comply with the Federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to the extent those regulations apply to the services the Provider provides or purchases with funds provided under this contract, including any subsequent amendments to the law.

- B. When applicable, Provider agrees to comply with the Health Information and Technology for Economic and Clinical Health Act (HITECH) which was enacted by Congress on Feb. 17, 2009. This Act increases Provider responsibilities regarding the requirements of HIPAA privacy and security provisions.

- C. As a convenience and courtesy, Provider may participate in annual HIPAA training conducted by Purchaser, however, the Purchaser is not requiring the Provider, as an independent contractor, to participate in this training as opposed to other training that may be available to the profession. The Purchaser's training meets its need, but the Purchaser is not representing that the training satisfies all of the requirements for Provider's HIPAA compliance.

21. NOTICE

Any notice provided under this Agreement shall be in writing and sent to the parties using the following contact information:

PURCHASER:

Jennifer Carriveau
Senior Financial Analyst
514 Riverview Ave
Waukesha WI 53188
jcarriveau@waukeshacounty.gov
(262) 548-7219
Fax: (262) 970-6696

PROVIDER (Please complete this section):

Name: _____
Title: _____
Address: _____
E-Mail: _____
Phone: _____
Fax: _____

22. ENTIRE AGREEMENT

It is understood and agreed that the entire Agreement between the parties is contained herein except for those matters incorporated herein by reference, and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof.

23. EXECUTION OF AGREEMENT

The Provider's Authorized Representative executing this Agreement represents that s/he is authorized to execute contracts on behalf of the Provider and, as a consequence, the Provider is bound by such signature.

Provider Signature

Date

Provider's Name/Title (Please Print)

Organization Name, if applicable (Please Print)

Antwayne Robertson, Director

Date

Waukesha County, Department of Health and Human Services

Attachments: Program Description(s)